

## REMARKS

### **A. BACKGROUND**

The present Amendment is in response to the Office Action mailed May 8, 2008. Claims 36-39, 41-53, and 55-77 were pending and rejected in view of cited art.<sup>1</sup> Claims 40, 54, and 78-112 were withdrawn and claims 36, 50, 64, and 76 are amended. Claims 36-39, 41-53, and 55-77 are now pending in view of the above amendments.<sup>2</sup>

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

### **B. PRIOR ART REJECTIONS**

#### **I. REJECTION UNDER 35 U.S.C. §102(E)**

The Office Action rejected claims 36, 38-48, 50, 52-62, 64, 66-74, and 76 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,861,027 (*Trapp*). Applicant respectfully traverses the Office Action's rejection.

The Office Action asserts that "Trapp-'027's Fig. 4, for example, show [sic] a stent structured substantially as recited in the claims" (Office Action, page 2). In support of this assertion, the Office Action cited *Trapp*'s Figure 4 with no additional identification of structure corresponding to the invention claimed in the pending claims (Office Action, page 3). Applicant will attempt to address the rejection based upon the limited available information.

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> Support for the claim amendments and new claims can be found throughout the specification and drawings as originally filed.

Claim 36 recites, in part, “at least two of the transition sections being separated, around the circumference of the wall, by at least three arcuate webs.” The Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses this limitation.

If the Office Action is asserting that *Trapp*’s “strengthened connection positions 15” are the same as a “transition section,” Applicant respectfully submits that each strengthened connection positions 15 is not “separated . . . by at least three arcuate webs,” as recited, in part, by claim 36. Rather, as shown in *Trapp* Figure 4, each strengthened connection position is apparently only circumferentially separated by apertures 13, 14 not “by at least three arcuate webs.” Furthermore, if the Office Action is asserting that *Trapp*’s boundary elements 5 are the same as “arcuate webs,” as recited, in part, by claim 36, Applicant respectfully submits that, as shown in *Trapp* Figure 4, only one boundary element 5 separates two strengthened connection positions 15. Therefore, Applicant respectfully submits that *Trapp* does not disclose, teach, or suggest “at least two of the transition sections being separated, around the circumference of the wall, by at least three arcuate webs,” as recited, in part, by claim 36.

Claim 50 recites, in part, “neighboring web patterns interconnected by transition sections separated, around the circumference of the wall, by at least two bends.” The Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses this limitation.

Rather, if the Office Action is asserting that strengthened connection portions 15 are the same as a “transition section,” Applicant respectfully submits that each strengthened connection positions 15 is not “separated . . . by at least two bends,” as recited, in part, by claim 50. Rather, as shown in *Trapp* Figure 4, each strengthened connection position is apparently only circumferentially separated by apertures 13, 14 not “by at least two bends.” Furthermore, if the Office Action is asserting that the angular portions of each boundary element 5 separating each strengthened connection position 15 is the same as a “bend,” Applicant respectfully submits that there is only one angular portion between each strengthened connection position 15 not “at least two bends,” as recited, in part, by claim 50. Therefore, Applicant respectfully submits that *Trapp* does not disclose, teach, or suggest “neighboring web patterns interconnected by transition sections separated, around the circumference of the wall, by at least two bends,” as recited, in part, by claim 50.

Claim 64 recites, in part, “neighboring web patterns interconnected by transition sections that define apertures having three intercommunicating S-shaped openings.” The Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses this limitation.

Rather, if the Office Action is asserting that strengthened connection portions 15 are the same as a “transition section,” Applicant respectfully submits that each strengthened connection positions 15 does not “define apertures having three intercommunicating S-shaped openings,” as recited, in part, by claim 64. Rather, as shown in *Trapp* Figure 4, each strengthened connection position 15 apparently at most borders two apertures 13, 14 not “at least three.” Therefore, Applicant respectfully submits that *Trapp* does not disclose, teach, or suggest “neighboring web patterns interconnected by transition sections that define apertures having three intercommunicating S-shaped openings,” as recited, in part, by claim 64.

Claim 76 recites, in part, “at least some of the transition sections between any two neighboring web patterns being arranged around the circumference of the tube with a common orientation and offset by at least two intervening bends.” The Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses this limitation.

Rather, if the Office Action is asserting that strengthened connection portions 15 are the same as a “transition section,” Applicant respectfully submits that each strengthened connection positions 15 is not “offset by at least two intervening bends,” as recited, in part, by claim 76. Rather, as shown in *Trapp* Figure 4, each strengthened connection position 15 is apparently at most only circumferentially separated by apertures 13, 14 not “offset by at least two intervening bends.” Furthermore, if the Office Action is asserting that the angular portions of each boundary element 5 separating each strengthened connection position 15 is the same as a “bend,” Applicant respectfully submits that there is only one angular portion between each strengthened connection position 15 not “at least two intervening bends,” as recited, in part, by claim 76. Therefore, Applicant respectfully submits that *Trapp* does not disclose, teach, or suggest “at least some of the transition sections between any two neighboring web patterns being arranged around the circumference of the tube with a common orientation and offset by at least two intervening bends,” as recited, in part, by claim 76.

Consequently, *Trapp* does not anticipate claims 36, 50, 64, and 76. Furthermore, the Office Action has not cited, nor can Applicant find, any portion of *Zhong* or *Alt* that discloses, teaches, or suggests these limitations. Rather, *Zhong* was cited as “disclos[ing] a coating of heparin to inhibit clot formation” and *Alt* was cited as “disclos[ing] a stent having a gold plating as a radiopaque feature for viewing the stent in the body” (Office Action, page 5). Therefore, the Office Action’s proposed combinations of *Trapp*, *Zhong*, and *Alt* does not disclose, teach, or suggest each and every element of independent claims 36, 50, 64, and 76 and dependent claims

38-48, 52-62, and 66-74. Applicant respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

## **II. REJECTION UNDER 35 U.S.C. §103(A)**

The Office Action apparently rejected claims 37, 49, 51, 63, 65, 75, and 77 under 35 U.S.C. § 103(a) as being unpatentable over *Trapp* in view of U.S. Patent No. 6,231,600 (*Zhong*) or U.S. Patent No. 5,824,045 (*Alt*). Applicant respectfully traverses the Office Action's rejection.

As shown above, *Trapp* does not disclose, teach, or suggest each and every element of claims 36, 50, 65, and 76. Therefore, *Trapp* fails to disclose, teach, or suggest "at least two of the transition sections being separated, around the circumference of the wall, by at least three arcuate webs;" "neighboring web patterns interconnected by transition sections separated, around the circumference of the wall, by at least two bends;" "neighboring web patterns interconnected by transition sections that define apertures having three intercommunicating S-shaped openings;" or "at least some of the transition sections between any two neighboring web patterns being arranged around the circumference of the tube with a common orientation and offset by at least two intervening bends." Furthermore, the Office Action has not cited, nor can Applicant find, any portion of *Zhong* or *Alt* that discloses, teaches, or suggests these limitations.

Therefore, the Office Action's proposed combinations of *Trapp*, *Zhong*, and *Alt* does not disclose, teach, or suggest each and every element of independent claims 36, 50, 64, and 76 and dependent claims 37, 49, 51, 63, 65, 75, and 77. Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn.

## **C. OBVIOUSNESS TYPE DOUBLE PATENTING REJECTION**

In a previous Office Action, dated, March 15, 2007, the Examiner rejected claims under the judicially created doctrine of obviousness-type double patenting. In response, Terminal Disclaimers were filed on June 15, 2007. In light of the recent Restriction Requirement and comments from the Examiner, Applicant reserves the right to withdraw the previously filed Terminal Disclaimers if allowable claims are identified and no double-patenting rejection applies.

**D. CONCLUSION**

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 16<sup>th</sup> day of September, 2008.

Respectfully submitted,

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